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*Attorneys for Defendants*

*The Animal Foundation and*

*Carly Scholten*

**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

BRIAN BORENSTEIN,

Plaintiff,

v.

THE ANIMAL FOUNDATION, et al.,

Defendants.

Case No.: 2:19-cv-00985-CDS-NJK

**DEFENDANT THE ANIMAL  
FOUNDATION'S MOTION FOR  
EXTENSION OF TIME TO FILE A  
RESPONSE TO PLAINTIFF'S MOTION  
FOR SANCTIONS [394]**

**(THIRD REQUEST)**

Defendant The Animal Foundation ("TAF"), by and through its counsel of record, the law firm of Reid Rubinstein & Bogatz, hereby moves this court for an enlargement of time to file its response to Plaintiff's motion for sanctions (ECF No. 394) (the "Motion"). This motion is made based upon the following memorandum of points and authorities, the declaration of Brad Lipman, Esq. included herein, all other papers and pleadings on file in this matter, and any oral argument allowed by the Court.

Dated this 5th day of January, 2024.

**REID RUBINSTEIN & BOGATZ**

By: /s/ Brad Lipman, Esq.

I. Scott Bogatz, Esq. (NV Bar No. 3367)

Brad Lipman, Esq. (NV Bar No. 14567)

300 South 4th Street, Suite 830  
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*Attorneys for Defendants The Animal  
Foundation and Carly Scholten*

**DECLARATION OF BRAD LIPMAN, ESQ. IN SUPPORT OF THE MOTION**

Brad Lipman, Esq., pursuant to 28 U.S.C. § 1746, hereby declares as follows:

1. I am over the age of 18 years and have personal knowledge of the facts stated herein, except for those stated upon information and belief and, as to those facts, I believe them to be true. I am competent to testify as to the facts stated herein in a court of law and will so testify if called upon.

2. I am an associate at the law firm of Reid Rubinstein & Bogatz, counsel of record for Defendant The Animal Foundation (“TAF”) in the instant case, *Borenstein v. The Animal Foundation, et al.*, Case No. 2:19-cv-00985.

3. I submit this declaration in support of TAF’s motion for extension of time to file a response to Plaintiff’s motion for sanctions (ECF No. 394).

4. From December 23, 2023 through December 30, 2023, counsel for TAF was traveling pursuant to holiday-related plans existing prior to submission of the Motion.

5. During that same period, counsel for TAF was simultaneously engaged in completing briefs for complex business litigation in the Eighth Judicial District Court of Nevada, which came due December 28, 2023.

6. Understanding that the pre-planned holiday travel and other litigation deadlines would compound such that TAF’s counsel reasonably required additional time to respond to Plaintiff’s Motion, the undersigned contacted Plaintiff’s counsel on December 22, 2023 to ascertain whether a stipulation to extend the deadline could be had.

7. The parties discussed and agreed to stipulate to move TAF’s deadline to file its response to the Motion from December 29, 2023 to January 5, 2023.

8. On December 28, 2023, the parties submitted the stipulation to the Court for approval (First Request).

9. On December 29, 2023, the Court denied the parties’ stipulation for failure to

1 comply with Local Rule IA 6-1(a).

2 10. Subsequently, on December 29, 2023, TAF submitted an unopposed motion for  
3 extension of time (Second Request) seeking the same extension but having corrected the LR IA 6-  
4 1(a) deficiency.

5 11. On January 2, 3, and 4, counsel for TAF was engaged in drafting and submitting  
6 responsive briefing for Plaintiff's other two concurrent filings (ECF Nos. 403 and 404).

7 12. Although at the time I believed the extension of time to be adequate for TAF to  
8 respond to Plaintiff's Motion for Sanctions (ECF No. 394), both counsel of record for TAF  
9 (Messrs. Bogatz and Lipman) were engaged in hearings before the Eighth Judicial District Court  
10 on January 4 and 5 that unexpectedly extended into full-day arguments.

11 13. Despite the truncated time resulting from the unexpectedly extended hearings,  
12 counsel for TAF remained committed to completing the response to Plaintiff's Motion for  
13 Sanctions by January 5, 2024 and endeavored to accomplish the same.

14 14. Although counsel for TAF have completed significant portions of TAF's response  
15 to the Motion for Sanctions, the arguments Plaintiff presents therein are numerous and require  
16 significant review of the deposition transcript to appropriately oppose; as a result, TAF requires  
17 an enlargement of time to oppose Plaintiff's Motion for Sanctions.

18 15. Given TAF's counsel's commitment to completing the response to Plaintiff's  
19 Motion for Sanctions by January 5, 2024, it has not become clear until this late hour (11:00 p.m.)  
20 that additional time will be necessary; as a result, counsel for TAF was unable to request an  
21 extension of time from opposing counsel during typical business hours to attempt to amicably  
22 resolve this issue.

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16. The enlargement of time requested herein is not presented for any purpose of undue delay and is made and based upon all of the facts and circumstances presented herein, including pre-planned holiday travel, the federally recognized holidays occurring in the briefing period, the several other filings made throughout the course of this week, and the unanticipated length of counsel's other hearings.

17. I declare under penalty of perjury under the laws of the United States (28 U.S.C. § 1746) and the State of Nevada (NRS 53.045), that the foregoing is true and correct.

Dated this 5th day of January, 2024.

/s/ Brad Lipman, Esq.  
Brad Lipman, Esq.

### **MEMORANDUM OF POINTS AND AUTHORITIES**

TAF seeks a four-day extension to file its response to Plaintiff's Motion for Sanctions (ECF No. 394), extending the time for TAF to respond until Tuesday, January 9, 2023. Based on the first granted extension date (from the second request), the deadline for filing TAF's response is January 5, 2024.

Fed. R. Civ. P. 6(b)(1)(A) provides this Court the authority to extend time when an act may or must be done within a specified time where good cause is shown and a motion seeking the same is filed prior to the original time's expiration. Here, good cause exists to grant the present motion as throughout the entire initially expended period, on January 2, 3, and 4, counsel for TAF was engaged in drafting and submitting responsive briefing (ECF Nos. 403 and 404) for Plaintiff's other two concurrent filings (ECF Nos. 395 and 396), each of which were timely submitted without the need for extension despite counsel's pre-planned holiday travel during the two-week response period. Additionally, on January 4 and 5, counsel for TAF was engaged in hearings before the Eighth Judicial District Court that unexpectedly extended into full-day arguments. Although counsel for TAF remained committed to completing TAF's response to the Motion for Sanctions within the initially amended time period, the arguments Plaintiff presents in his Motion for Sanctions are numerous and require significant review of the deposition transcript to appropriately

1 oppose.

2 Based on the foregoing, TAF respectfully requests that this Court grant it a four-day  
3 extension of time to file its response to Plaintiff's motion for sanctions (ECF No. 394).

4 Dated this 5th day of January, 2024.

5 **REID RUBINSTEIN & BOGATZ**

6  
7 By: /s/ Brad Lipman, Esq.

8 I. Scott Bogatz, Esq.

9 Nevada Bar No. 3367

10 Brad Lipman, Esq.

11 Nevada Bar No. 14567

12 300 South 4th Street, Suite 830

13 Las Vegas, Nevada 89101

14 *Attorneys for Defendants*

15 *The Animal Foundation and*

16 *Carly Scholten*

17 **ORDER**

18 IT IS SO ORDERED.

19 **NO FURTHER EXTENSIONS OF THIS  
20 DEADLINE WILL BE GRANTED.**

21 Dated: January 8, 2024.

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Nancy J. Koppe  
United States Magistrate Judge

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